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09/766,754	01/21/2001	William G. Noles	IRC288 (I4060/197833)	1258

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EXAMINER

DORSEY, DENNIS

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 11/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/766,754

Applicant(s)

NOLES, WILLIAM G.

Examiner

Dennis L Dorsey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 1 recites the limitation "the textile face" in line 3. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Baltes EP Patent 0 297 684 A1.

Baltes '684 teaches all the limitations of the above claims including an apparatus with an energy source or hot air gun (10), a structure (1), frame (9), guide (12, 13), and rollers (2).

The preamble claims an apparatus, thus any limitations to the modules carry little to no patentable weight. For example, the limitation of "contacting a textile face of the floor covering is inherent since all structural limitations are met.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7. Claims 1-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Hubbard et al. Patent Number 5,935,357

Hubbard et al. '357 teaches all the limitations of the above claims including an apparatus with an energy source or hot air gun (20), a structure (22), adjustable frame or cradle (column 6, lines 1-5), guide (30, 32, column 5, lines 30-40), rollers (62, 64), handle (36), and projecting arms (see Figure 1) with rotating members (24).

The preamble claims an apparatus, thus any limitations to the modules carry little to no patentable weight. For example, the limitation of "contacting a textile face of the floor covering is inherent since all structural limitations are met.

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***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP Patent XP002137953 (JP 59 155218 A) in view of Baltes '684.

JP 59 155218 A teaches all the limitations of the above claims except the use of a hot air gun to apply heat and pressure. JP 59 155218 teaches cutting a carpet into required shape and applying heat and pressure to the edge of the textile pile face carpet tile to form a recess edge. Baltes '684 teaches a method of positioning the hot air gun on the carriage (1) and moving across the floor covering (3), maintaining first reference structure (2) and second reference structure (12, 13) rotatable or hinged (column 2, lines 24-27). . It would have been obvious for one skilled in the art at the time the invention was made to use the hot air gun as taught by Baltes to apply heat and pressure to the edge of the carpet tile to change the appearance since it is held to within the skill of a worker to select a well known technique for ease of production of the carpet tile.

***Response to Arguments***

10. Applicant's arguments filed July 21, 2003 have been fully considered but they are not persuasive. The Examiner maintains that in a U.S.C. 102 rejection when the preamble claims an apparatus, any limitations to the modules carry little to no

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patentable weight. The newly added amendments to the claims sets forth the limitation of the energy source adapted to transfer heat to the textile face of the floor covering in an amount sufficient to melt a portion of the textile, however no textile face is positively claimed. Further, this lends to the function of the energy source, which is inherent if all structural limitations are met. Thus Blates '684 and Hubbard et al. '357 provide a teaching for all the limitations to the apparatus.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis L Dorsey whose telephone number is 703-306-9137. The examiner can normally be reached on Monday-Friday 9:00 am-5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1020.

DLD 

  
Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600